IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3523 OF 2005

Lahu Kanu Rikame ...Applicant

Vs.

The State of Maharashtra ...Respondent

Ms. Vaidehi S. Mhaispurkar for the Applicant.
Mr. R.Y.Mirza A.P.P. for the Respondent.

CORAM : A. S. OKA, J.
DATED : JUNE 28, 2005.

P.C.:

1. Heard Advocate appearing for the Applicant and learned A.P.P. for the State. The allegation against the Applicant and the co-accused is that passengers in one luxury bus were robbed in the night between 24th June,2004 and 25th June, 2004. The prosecution case is that immediately thereafter the passengers in one jeep were robbed and the golden ornaments and cash worth rupees more than one lakh was robbed by ten to twelve criminals. The case of the prosecution is that the Accused were absconding and the present Applicant was arrested on 16th September, 2004. The case of the prosecution is that in identification parade held on 30th October, 2004 atleast three witnesses have identified the Applicant. The learned Additional Sessions Judge rejected the Application for bail made

by the Applicant on the ground that three witnesses have been injured and the offence was serious The learned Judge observed that the two accused are history-sheeters besides the other Accused.

2. The learned Counsel appearing for the Applicants has invited my attention to the fact that the identification parade is held 45 days after arrest. The case of the prosecution is that at the time of incident all the Accused had covered their faces by using handkerchiefs of different colours. It is submitted that in the identification parade the faces of the persons present were not covered. It is submitted that the injuries on the three witnesses are simple injuries caused by blunt and hard object. Lastly, it is submitted that the Applicant is in custody from September, 2004.

3. The learned A.P.P. has opposed this Application by pointing out that a sword has been recovered at the instance of the Applicant. The learned A.P.P. submitted that serious allegation is made against the Applicant and the co-accused of robbing passengers in two vehicles one after the other and as the Applicant and other co-accused have been identified in the identification parade, the Applicant cannot be

enlarged on bail. The learned A.P.P. has fairly stated on instructions that the observations made by the learned Additional Sessions Judge in paragraph No.7 of his order that some of the Accused are history-sheeters is not applicable to the Applicant and there are no criminal antecedents of the Applicant.

4. I have considered the submissions. Offence has allegedly taken place on 24th June, 2004. After the Applicant was arrested on 16th September, 2004, the Identification Parade was held on 30th October, 2004. The F.I.R. and the statement of one eye-witness disclose that all the Accused had covered their faces by using handkerchiefs of different colours. In this view of the matter, it is very difficult to accept at this stage that four months after the incident the witnesses could identify the Accused. Though there is recovery of sword at the instance of the Applicant, it is not the case of the prosecuton that sword has been used as a weapon of assault. As stated earlier injuries on the person of three witnesses are simple in nature. The Applicant has been in the custody from 16th September, 2004. Considering all these factors the Applicant will have to be enlarged on Bail. However, the Applicant will have to be subjected to

stringent conditions by preventing his entry in the area in which offences are registered against him.

5. Hence, I pass the following order:

: O R D E R :

i) The Applicant shall be enlarged on bail subject to Applicant furnishing P.R.Bond in sum of Rs.25,000/- with two local sureties in the like amount.

ii) The Bail is granted subject to condition that the Applicant will not enter the area falling within the jurisdiction of A.P.M.C. Police Station, Navi Mumbai, Vashi Police Station, Navi Mumbai and Ram Nagar Police Station, Dombivali, District Thane till the conclusion of the trial.

iii) The Bail is granted subject to condition that the Applicant will attend the Murbad Police Station, District Thane atleast twice a week till the conclusion of the trial.

iv) The Applicant will not make any attempt to influence or pressurise the prosecution witnesses or to tamper with the prosecution evidence.

v) The Applicant will remain present on the various dates fixed for the trial and will co-operate with learned Trial Judge for early disposal of the trial.

vi) The Application is disposed of in above terms.

vii) Parties to act upon an authenticated copy of this order.

JUDGE